

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

|  |   |
|--|---|
| <b>I. (a) PLAINTIFFS</b><br>Lorraine Z. Waitkus<br><br><b>(b)</b> County of Residence of First Listed Plaintiff <u>Bergen</u><br><br><b>(c)</b> Attorney's (Firm Name, Address, Telephone Number and Email Address)<br>Wesley G. Hanna, Esquire/Friedman & Associates, LLC, 125 North<br>Route 73, West Berlin, New Jersey 08091 | <b>DEFENDANTS</b><br>Faloni & Associates, LLC<br><br>County of Residence of First Listed Defendant <u>Essex</u><br><br>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE<br>LAND INVOLVED.<br><br>Attorneys (If Known)<br>unknown |
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| <b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)<br><br><input type="checkbox"/> 1 U.S. Government Plaintiff<br><input type="checkbox"/> 2 U.S. Government Defendant<br><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)<br><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) | <b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)<br>(For Diversity Cases Only) <table style="width:100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table> |                            | PTF   | DEF                        |                            | PTF | DEF | Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
|---|---|----------------------------|---|----------------------------|----------------------------|-----|-----|-----------------------|----------------------------|----------------------------|---|----------------------------|----------------------------|--------------------------|----------------------------|----------------------------|---|----------------------------|----------------------------|---|----------------------------|----------------------------|----------------|----------------------------|----------------------------|
|   | PTF   | DEF                        |   | PTF                        | DEF                        |     |     |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen of This State   | <input type="checkbox"/> 1  | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |     |     |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen of Another State  | <input type="checkbox"/> 2  | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |     |     |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen or Subject of a Foreign Country   | <input type="checkbox"/> 3  | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |     |     |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |

| IV. NATURE OF SUIT (Place an "X" in One Box Only)  |  |  |   |  |  |
|--|--|--|---|--|--|
| CONTRACT   | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY  | OTHER STATUTES   |  |
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other<br><br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act<br><br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |  |
| REAL PROPERTY  | CIVIL RIGHTS   | PRISONER PETITIONS   |   |  |  |
| <input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   | <input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 440 Other Civil Rights  | <input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> Habeas Corpus:<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition  |   |  |  |

**V. ORIGIN** (Place an "X" in One Box Only)

|   |   |  |   |  |   |  |
|---|---|--|---|--|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
|---|---|--|---|--|---|--|

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 U.S.C. 1692 et. seq

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:  
**JURY DEMAND:** ☐ Yes ☐ No

**VIII. RELATED CASE(S)** (See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

Explanation: 8-16-2011

DATE \_\_\_\_\_

SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_

THE LAW OFFICE OF SANDER FRIEDMAN  
Wesley G. Hanna, Esquire  
125 North Route 73  
West Berlin, New Jersey 08091  
(856) 988-7777  
Attorneys for Plaintiff

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**THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY  
(NEWARK)**

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|                          |   |                    |
|--------------------------|---|--------------------|
| LORRAINE Z. WAITKUS,     | : | Civil Case Number: |
|                          | : |                    |
| <i>Plaintiff,</i>        | : |                    |
| v.                       | : | Civil Action       |
|                          | : |                    |
| FALONI & ASSOCIATES, LLC | : |                    |
|                          | : | <b>Complaint</b>   |
| <i>Defendants.</i>       | : |                    |

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Plaintiff hereby complains against the Defendant as follows:

**PARTIES**

1. Plaintiff Lorraine Z. Waitkus is an individual residing in Bergen County, New Jersey.
2. Defendant Faloni & Associates, LLC is a lawfirm and debt collector operating out of Fairfield, New Jersey.

**JURISDICTION AND VENUE**

3. Jurisdiction is proper in the Federal District Court as the case is premised upon a federal question as defined under 28 U.S.C. 1331, to wit, application and interpretation of the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et. seq.
4. Venue is proper in Newark because a substantial part of the events giving rise to Plaintiff's claims took place in the scope of the Newark vicinage.

**BACKGROUND**

5. Plaintiff Lorraine Z. Waitkus is an individual that Defendant is attempting to collect a purported debt from.

6. As part of Defendant's debt collection effort, Defendant sent Ms. Waitkus an initial collection notice.
7. The portions of the notice that identifies it as being from a debt collector and advising Ms. Waitkus of her validation rights are not sufficiently prominent to be noticed by the least sophisticated debtor.
8. The notice is under an attorney's letter head.
9. The letter expressly and impliedly threatens legal action.
10. The notice also contained a disclaimer, stating "At this time no attorney with this firm has personally reviewed the particular circumstances of your account."
11. Upon information and belief, there was no meaningful attorney involvement with the file or account before sending Ms. Waitkus the collection notice.

### **CLASS ALLEGATIONS**

#### **Violation of the Fair Debt Collection Practices Act, 15 U.S.C. 1692**

12. The above recitations are hereafter incorporated by reference.
13. Upon information and belief, Defendant is a debt collector that attempts to collect a large number of debts on behalf of one or several creditors.
14. Upon information and belief, Defendant sends a nearly identical collection notice to each and every one of the consumers that are subject to its debt collection efforts.
15. Defendant's collection notices violate the Fair Debt Collection Practices Act by failing to prominently identify Defendant as a debt collector and apprise consumers of their validation rights.
16. Defendant's collection notices violate the Fair Debt Collection Practices Act in that a notice that purports to be from an attorney and threatens legal action while simultaneously disclaiming attorney review of the matter is abusive, harassing, deceptive, misleading, unconscionable, and otherwise unlawful.
17. Upon information and belief, Defendant sends out the offending collection notice en

masse without any meaningful attorney involvement.

18. The practice described in the paragraph above amounts to a law firm renting out its letterhead. It is unethical, violates the Rules of Professional Conduct, and by extension, violates the Fair Debt Collection Practices Act.

19. The proposed class(es) consists of all natural persons that received a collection notice containing one or more of the defects described above.

20. Upon information and belief, members of the prospective class(es) are so numerous that joinder of all class members is impractical. Plaintiff's belief is that there are several hundred class members. The exact number and identities of the class members are currently unknown and can be ascertained from the books/records of the Defendants and/or appropriate discovery.

21. Common questions of law and fact exist as to all members of the class that predominate over any questions affecting any individual class members.

22. Common questions of fact include, but may not be limited to:

- a. The content of collection notices.
- b. Whether the collection notices are misleading, abusive, harassing, deceptive, or otherwise in violation of the rights of the least sophisticated debtor
- c. Whether there was any meaningful attorney involvement in the matters prior to the mailing of collection notices on law firm letterhead.

23. Common questions of law include, but are not limited to, the propriety of Defendant's collection notice and activities (including the act of allowing a law firm's letter head to be used to up the ante in a debt collection effort without any meaningful attorney involvement in the matter) in light of the burdens imposed by the Fair Debt Collection Practices Act and/or other laws and legal precepts.

24. Plaintiff's claims are typical of the claims of the class(es) as she was subject to the notices and collection activities.

25. Plaintiff has the same interest as all other members of the class(es) - ensuring

Defendants comply with all laws affecting the collection of consumer debts.

26. Plaintiff will fairly and adequately represent and protect the interest of the class(es).

27. Plaintiff has retained counsel with experience in class action litigation, as well as other complex litigation. The interests of the Plaintiff is coincident to, and not antagonistic to, the interest of other members of the class(es).

28. The questions of law and fact common to members of the class predominant over any questions affecting individual class members and class litigation is the superior method to adjudicate the common questions. The prosecution of separate actions by individual members of the class would result in duplicitous litigation over the same issues and possibly create a risk of inconsistent or varying adjudications that could result in establishing inconsistent standards of conduct, policies and/or procedures for the Defendants. The Defendant's notices and collection activities affect all class members identically. The class action mechanism is superior to other available methods for the fair and efficient adjudication of this controversy.

29. Neither Plaintiffs, nor their counsel, will have difficulty managing their respective roles in prosecuting this action as a class action.

*Wherefore*, Plaintiffs request judgment as follows:

- a. Certifying this matter as a class action, with multiple classes, or sub-classes, as may be appropriate;
- b. Awarding such sums as appropriate under *15 U.S.C. 1692k*;
- c. Awarding counsel fees and costs of suit;
- d. Awarding pre-judgment interest;
- e. Awarding other such relief as the Court may deem fair and equitable.

### **Individual Claims**

#### **Violation of the Fair Debt Collection Practices Act, 15 U.S.C. 1692**

30. The above allegations are hereafter incorporated by reference.

31. As described above, the collection notice received by Plaintiff violates the Fair Debt Collection Practices Act.

32. As described above, Defendant's collection activities, including the act of allowing a

law firm 's letter head to be used to up the ante in a debt collection effort without any meaningful attorney involvement in the matter, violate the Fair Debt Collection Practices Act.

*Wherefore*, Plaintiffs request judgment as follows:

- a. Awarding such sums as appropriate under *15 U.S.C. 1692k*;
- b. Awarding counsel fees and costs of suit;
- c. Awarding pre-judgment interest;
- d. Awarding other such relief as the Court may deem fair and equitable.

*/s/ Wesley G. Hanna*

Wesley G. Hanna, Esq.  
(WH-9019)